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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/480,061	01/10/2000	ART MALIN	769-197CIP-D	3852
75	90 11/12/2002			
GERALD LEVY PITNEY, HARDIN, KIPP & SXUCH LLP 685 THIRD AVENUE			EXAMINER	
			GARBE, STEPHEN P	
NEW YORK, N	NY 10017		ART UNIT PAPER NUMBER	PAPER NUMBER
•			3727	
•			DATE MAILED: 11/12/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

, .		Application No.	Applicant(s)			
Office Action Summary		09/480,061	MCMAHON ET AL.			
		Examiner	Art Unit			
		Stephen Garbe	3727			
	Th MAILING DATE of this communication appears on the cover she t with the c rrespond nce address Period for Reply					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).  Status						
1)🖂	Responsive to communication(s) filed on 29 C	October 2002 .				
2a)⊠	This action is FINAL. 2b) Thi	s action is non-final.				
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims						
•	Claim(s) <u>14 and 16</u> is/are pending in the applic	cation.				
,—	4a) Of the above claim(s) is/are withdrawn from consideration.					
	Claim(s) is/are allowed.					
6)⊠ Claim(s) <u>14 and 16</u> is/are rejected.						
•	7) Claim(s) is/are objected to.					
•	Claim(s) are subject to restriction and/or	election requirement.	•			
Application Papers						
9)☐ The specification is objected to by the Examiner.						
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
11)☐ The proposed drawing correction filed on is: a)☐ approved b)☐ disapproved by the Examiner.						
If approved, corrected drawings are required in reply to this Office action.						
12) The oath or declaration is objected to by the Examiner.						
Priority under 35 U.S.C. §§ 119 and 120						
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a)[	☐ All b)☐ Some * c)☐ None of:					
	1. Certified copies of the priority documents	have been received.				
	2. ☐ Certified copies of the priority documents	have been received in Application	on No			
<ul> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>						
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).						
a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.						
Attachment(s)						
1) Notice	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informal P	(PTO-413) Paper No(s) atent Application (PTO-152)			
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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 2. Claims 14 and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by the arrangement illustrated in Figure 7 of May et al., United States Patent No. 5,660,479.
- 3. Applicant's arguments filed with the reply have been fully considered but they are not persuasive. The arguments with respect to the Johnson and Malin patents have been considered but are most in view of the new ground(s) of rejection.
- 4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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5. Any inquiry concerning this application or proceeding should be directed to Stephen Garbe who can be reached at 703-308-1207. The examiner can normally be reached Monday-Thursday between the hours of 7:15 and 4:45 and alternate Fridays between the hours of 7:15 and 3:45.

- 6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on 703-308-2572.
- 7. The <u>fax phone numbers</u> for Technology Center 3700 are 703-872-9302 for papers filed in response to a non-final Office Action and 703-872-9303 for papers filed in response to a Final Office Action.
- 8. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is 703-308-1148.

Stephen P. Garbe Primary Examiner Group 3720